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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,747	12/08/2003	Robert M. Koehl	085455-9455-00	2653
23409	7590	12/01/2006	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP				DWIVEDI, VIKANSHA S
100 E WISCONSIN AVENUE				ART UNIT
MILWAUKEE, WI 53202				PAPER NUMBER
				3746

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/730,747	KOEHL, ROBERT M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vikansha S. Dwivedi	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 September 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9-63,72-76 and 87 is/are pending in the application.
- 4a) Of the above claim(s) 9-19,36-63 and 72-76 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 20-35 and 87 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

This office action is in response to the amendments of 9/25/2006. In making the below rejections and/or objections the examiner has considered and addressed each of the applicants arguments. Claims 20-35 and 87 are pending and are under current consideration.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20-35 and 87 are rejected under 35 U.S.C. 102(b) as being anticipated by Struthers (U.S. Patent number 6,481,973).

Struthers discloses a method of operating a motor of a pump, the method comprising: measuring a bus current (Determined by the sensors 42, microprocessor 24 in conjunction with the control board 22)- note that the current is sensed (See Column 5 lines 18-30 and column 9 lines 30-45); being provided to the motor (12), (shown in Figure 2); determining whether the bus current is greater than a limp current limit setting. Note that any arbitrary current value can read on the limp current limit setting. Reducing at least one of an output voltage provided to the motor and an operating frequency of the motor if the bus current is greater than the limp current limit setting in order to drive the motor in a limp mode (Column 5, lines 18-30); and shutting down the

motor if the motor does not operate within operational limits while being driven in the limp mode (The control board (22) can shut the motor down if it does not operate within the desired range). Struthers explains that control board 22 can be equipped to monitor and record various operational data which may include supply voltage and operating current (Column 9, lines 22-38).

### ***Response to Arguments***

Applicant's arguments filed 9/25/2006 have been fully considered but they are not persuasive. As is consistent with the applicant's specification, the terms "limp mode" and "limp current limit" are interpreted to be a state of pump motor operation at reduced power or speed (reduced voltage and current to the motor), and the limit at which this state occurs, respectively. As is, if the sensed current, temperature, or voltage exceeds a predetermined limit value, (which constitutes a limp current, voltage, or temperature limit), the control circuit reduces speed of the motor by reducing power. The product of current and voltage equals power, it is obvious that the speed is reduced by reducing the power to the motor, i.e. reducing voltage or current. Struthers specifically teaches the control of the frequency (Column 5, lines 9-30) and using the current as the parameter to control the motor.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikansha S. Dwivedi whose telephone number is 571-272-7834. The examiner can normally be reached on M-F, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vikansha

VSD  
November 28, 2006



EHUD GARTENBERG  
SUPERVISORY PATENT EXAMINER